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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,219	12/03/2003	Brian John Roberts	12406/88	7993
26646	7590	01/03/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			HARRISON, JESSICA	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 01/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/728,219

Applicant(s)

ROBERTS, BRIAN JOHN

Examiner

Jessica J. Harrison

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 10 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Bouedec 5,628,684. Bouedec discloses a game system comprising an instant win first game ticket and at least one second game initialized by a code contained on the first game ticket. Bouedec's lottery ticket T1 includes a removable portion 7, a barcode D1, and an interactive game information portion S1 (win information necessary to play second game). The removable portion is a scratch off layer (claim 10). Regarding claim 23, Bouedec's system includes a central server system (C), instant win application software as communication occurs at least between redemption terminal 12 and the central, on – line application software as communication occurs between terminal 2 and Bouedec's central, and game application software in terminal 2 for play of the interactive second game.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3714

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9 and 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouedec in view of Burr 5,222,624.

Bouedec discloses a two step lottery game system/ticket/method. The first step, or first game, includes a scratch-off instant win lottery ticket which is obtained/purchased by a player. Each ticket carries identification information in the form of a bar code D1, which is also stored in the memory of the computer at the central site. The second game 2 is a video game, assessable from a game console 10 also connected to the central computer C via an electrical link 11. The ticket is inserted into the slot of the game console, which reads the identification information D1 and if valid, offers a second game to the player. This terminal is remote from the central. If a player wins the second game, his winnings are printed on a receipt for later payment. Bouedec does teach that game console 10 and redemption terminal 12 may be combined into a single unit.

Bouedec differs from instant claims 1, 12, 15 and 20, in that he fails to explicitly disclose a lottery ticket dispenser having a bar code reader, though he does suggest D1 is transmitted from the ticket to the memory storage M. Bouedec differs from claims 2, 19 in that he fails to state the lottery ticket dispenser comprises a printer for printing information on the lottery ticket.

Bouedec fails to explicitly state use of the internet as recited in instant claims 3, or use of an address (claims 4, 9). Bouedec lacks teaching the dispenser having a computer as recited in claim 6 and the ticket information being activated when the bar code is transmitted to the central (claims 7, 13, 17) or the stock fan folding of claim 11. Finally, Bouedec fails to mention any use of a player account which is credited if a player wins (claim 22).

In looking to implement Bouedec, one of ordinary skill in the art would readily recognize the need for an efficient means/method for distributing the lottery tickets Bouedec utilizes. The means would need to be able to store the generated tickets/information of element 8 and communicate such to the central computer C for storage in memory M. Known to the art of dispensing at the time of Bouedec were ticket dispensing machines and methods such as that disclosed by Burr. Instant-win lottery tickets are sold by the machine of Burr. The dispenser is connected electrically to a central computer for accounting and control purposes. The stock dispensed by the machine includes bar codes and is fan folded. As tickets are dispensed, the bar codes are read by bar code reader 132 and information is printed upon tickets by printer 116. Information about the tickets is stored and sent to the central 204 for accounting and security purposes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the game system of Bouedec with an automated ticket dispensing machine/system as taught by Burr, so that players may

obtain lottery tickets with ease at convenient locations and at convenient times rather than having go visit a retailer. Further, the physical structure of Burr readily completes the functions described in Bouedec regarding the distribution of tickets/storage of information in the central when tickets are sold. Burr fills in and compliments the Bouedec game system. The remaining difference is the use of the internet and address information for the player to obtain access to the second game as opposed to Bouedec's use of the bar code/win indication for access to the second game. While Bouedec discloses 'electrical links' as his network, it appears to be dedicated connections. This clearly increases cost and limits location for placement of the Bouedec terminals. One of ordinary skill in the art at the time of the invention, knowing the accessibility advantages and low cost of the Internet infrastructure, would readily see the advantages of having the information printed on the tickets regarding the second game be an address which players could access from any internet terminal connection in order to play the second game. All of the structure of Bouedec's game terminals is available in a home computer arrangement. This would again reduce the costs of implementing Bouedec and widely enhance and expand the number of potential players of the Bouedec game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bouedec/Burr to include use of the Internet as the electrical link and address codes for access to the second game from a terminal, in order to expand usage of the game.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica J. Harrison whose telephone number is 571-272-4449. The examiner can normally be reached on M-F during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica J. Harrison  
Primary Examiner  
Art Unit 3714